

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

Index #  
Date of filing:

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WINFRED BURRUS,

Plaintiff designates Kings  
County as the place of trial

Plaintiff,

Basis of the venue is Plaintiff's  
residence

-against-

BOY SCOUTS OF AMERICA and BOY SCOUTS OF  
AMERICA,-Pack 494,

**SUMMONS**

Defendants.

Plaintiff resides at  
192 Sands Street, Apt. # 4F  
Brooklyn, New York 11201

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County of Kings

**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

**Defendant's address:**

BOY SCOUTS OF AMERICA  
1325 W. Walnut Hill Lane, #S406  
Irving, Texas 75038

**Plaintiff's attorneys:**

RUBENSTEIN & RYNECKI, ESQS.  
16 Court Street, Suite 1717  
Brooklyn, New York 11241  
(718)522-1020

BOY SCOUTS OF AMERICA,-Pack 494  
1325 W. Walnut Hill Lane, #S406  
Irving, Texas 75038

Dated: Brooklyn, New York  
August 14, 2019

**SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF KINGS**-----X  
WINFRED BURRUS,

Index No.:

Plaintiff,

-against-

**COMPLAINT**BOY SCOUTS OF AMERICA, and BOY SCOUTS OF  
AMERICA, –Pack 494,Defendants.  
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Plaintiff, by his attorneys, RUBENSTEIN & RYNECKI, ESQS., complaining of the defendant herein, upon information and belief, respectfully show to this Court, and allege as follows:

**INTRODUCTION**

1. This Complaint is based on the childhood sexual abuse, assault, and molestation of Plaintiff, Winfred Burrus (“Plaintiff”), caused by the negligent, willful, wanton, reckless, and tortious acts of Boys Scout of America, BOY SCOUTS OF AMERICA, – Pack 494, and Fred Modica aka Freddie Modica (“Modica”).

2. This Action is brought pursuant to the newly enacted Child’s Victim Act (“CVA”).

3. The CVA allows individual whom a sexual offense(s) was committed against as a child, recourse against those who both committed the sexual offense and/or those who permitted the sexual offense to occur and failed to address it.

4. The Boy Scouts of America (“BSA”) is one of the largest youth organizations in the United States, with more than 2.4 million youth participants and nearly one million adult

volunteers. The BSA was founded in 1910, and since then, more than 110 million Americans have been participants in BSA programs at some time.

5. Throughout its history, the BSA has held itself out to the public as “moral and safe” environment for boys to participate in healthy outdoor activities and to be given proper guidance and instruction.

6. Despite carrying itself out as a “moral and safe environment”, since the 1940s, the BSA has been surreptitiously removing Scoutmasters for child sexual abuse at a terrifying and shocking rate. BSA records demonstrate that it has long known that scouting attracts pedophiles in large numbers and that scouts are at the heightened risk of sexual abuse by child molesters.

7. Notwithstanding this knowledge and relationship of trust owed to the children Boy Scouts and the parents who enrolled their children in the Boy Scouts, the BSA negligently, recklessly, and willfully failed to protect plaintiff from Modica’s sexual abuse, permitted the abuse to occur, neglected to adequately supervise Modica, failed to timely investigate Modica’s misconduct, acted to protect their own self-interest to the detriment of innocent children, and are otherwise responsible for Modica’s sexual assault of Plaintiff and his consequential injuries and damage.

8. Due to the defendants’ negligent, reckless, and carelessness, and willful misconduct, Plaintiff Winfred Burrus, a minor, suffered grave physical harm, severe mental, emotional, and psychological pain and anguish. Modica’s abuse of Burrus not only destroyed Burrus’ childhood, but severely damaged Burrus for life. Burrus’ pain and mental anguish is continuing and permanent.

**THE PARTIES**

9. The plaintiff, WINFRED BURRUS, is a citizen and resident of New York, Kings County.

10. Burrus was born in 1962 at all times relevant hereto, plaintiff was a minor in Kings County and a scout/member in the BSA.

11. At all times relevant hereto, Defendant, Boy Scouts of America ("BSA"), was and is a corporation with a principle of business of Irving, Texas. BSA is authorized to do business and is doing business in the State of New York, and in Kings County, through various local and regional Boy Scout organizations and councils.

12. BSA is a nonprofit organization that operates, promotes, oversees, sets standards, and establishes policies, protocols, and procedures and is authorized to do business and is doing business in the State of New York, Kings County.

13. At all times relevant hereto, Fred Modica aka Freddie Modica was a resident of Kings County, and a Scoutmaster for the BSA.

14. Defendant BSA, operates, promotes, oversees, guides, sets standards and establishes policies, protocols, rules, regulations, and procedures for youth organizations, nationally through various local, state, and regional organizations, including Pack 494.

15. The BSA's goal is to train youth in responsible citizenship, character development, and self-reliance through participation in a wide range of outdoor activities, educational programs, and, at older age levels, career-oriented programs in partnership with community organizations. For younger members, the Scout method is part of the program to instill typical Scouting values such as trustworthiness, good citizenship, and outdoors skills,

through a variety of activities such as camping, aquatics, and hiking nationally through various local, state, and regional organizations, including Pack 494.

16. BSA grants charters to local councils and organizations to operate and conduct Boy Scout activities within their geographic area including Boy Scout Pack 494.

17. At all times relevant hereto, Defendant, BOY SCOUTS OF AMERICA– Pack 494 (“Pack 494”) was and is New York Corporation with a business address of and was and is authorized to do business in the State of New York and County of Kings.

18. Pack 494, like all BSA packs and/or troops was at all relevant times an agent of BSA.

19. Pack 494, like all BSA packs and/or troops was at all relevant times, is and was controlled, directed, overseen, and maintained by the BSA.

20. The BSA and Pack 494 are collectively referred herein to as “Boy Scout Defendants”.

21. At all times relevant hereto, the Boy Scout Defendants acted by and through their agents, representatives, volunteers, employers, and/or servants.

22. At all times relevant hereto, the Boy Scout Defendants operated various programs for young boys, including plaintiff, and authorized, approved, ratified, and selected adults to serve as Scoutmasters.

23. At all times relevant hereto, the Boy Scout Defendants were responsible for the hiring, retention, directions, and supervision of adults, including Modica, to serve as Scoutmasters.

24. The Boy Scout Defendants, acting by and through their duly authorized agents, representatives, volunteers, employees, and/or servants, operated, directed, maintained, and/or

controlled a Boy Scout troop in in Kings, County New York, known as Pack 494.

25. At all times relevant hereto, then minor, plaintiff Winfred Burrus, was a member of Boy Scout Pack 494.

26. At all times relevant hereto, Fred Modica aka Freddie Modica ("Modica") was a Scoutmaster for Pack 494.

27. At all times relevant hereto, Modica was selected, accepted, ratified, approved, and authorized by the Boy Scout Defendants to serve in his capacity for the purpose of educating, instructing, and training young boys, including plaintiff, in morality, patriotism, and various life skills.

28. At all times relevant hereto, Modica served and acted as a duly authorized and ratified agent, employee, servant, representative, and/or volunteer of the Boy Scout Defendants, and was subject of, the authority, direction, and control of the Boy Scout defendants.

29. Modica, at all relevant times was a Scoutmaster and agent, employee, volunteer, servant, representative of the Boy Scout Defendants and acted within the scope of his employment.

### **FACTS**

30. In the Spring and Summer of 1973, and at all times hereinafter mentioned belief, the plaintiff was a scout in Pack 494.

31. At all times relevant hereto, for the purposes of furthering his duties as a Scoutmaster, Modica, sought and gained the then minor Burrus trust, friendship, admiration, and obedience.

32. At all times relevant herein, Burrus was conditioned to comply with Modica's direction and looked at him as authority/father figure.

33. At all times relevant hereto, using the power, authority and trust of his position as a Scoutmaster and availing himself of the Boy Scouts Defendants' representations to parents and scouts that the BSA was a moral and safe place for young boys, Modica enticed, induced, directed, coerced and forced Burrus to engage in multiple deviant sexual acts with him.

34. At all times relevant hereto, Modica used physical and emotional force to impose his will on then minor Burrus, in order to commit multiple grievous acts of sexual abuse upon then minor Burrus, all of which constituted flagrant abuse of the power and authority authorized to him by the Boy Scout Defendants.

35. At all times relevant hereto, Modica used physical and emotional force to impose his will on then minor Burrus, by luring him to his home, forcing him to disrobe, become undressed, throwing Burrus onto his bed, where Modica proceeded to sexually abuse, molest, perform all sorts of deviant sexual acts including but not limited to fondling of Burrus genitals, oral sex, among other unimaginable acts, all of which constituted flagrant abuse of the power and authority authorized to him by the Boy Scout Defendants.

36. During that same period of time, the Boy Scout Defendants knew, or should have known, that Modica, routinely had juvenile boys from Pack 494 and elsewhere stay overnight with him, come to his apartment, swim together, undress, participate in illegal sexual misconduct between Modica and the juveniles, including fondling, choking, masturbation, and be subject to physical and psychological torture.

37. During that same period of time, the Boy Scout defendants knew, or should have known that Modica routinely exposed himself to numerous juveniles at his home and touched, fondled, and performed oral sex and anal penetration upon the minors.

38. During that same period of time, the Boy Scout defendants knew, or should have

known, that Modica routinely took juveniles from Pack 494 on camping trips, frequently without any other adult supervision, and those juveniles were forced by his authority role to perform deviant sexual acts, including but not limited to fondling, masturbation, oral sex, and anal penetration and be subject to other physical and psychological torture.

39. As a result of the foregoing, Burrus has suffered and/or continues to suffer physical, psychological, and emotional injuries. These injuries include, severe depression, post-traumatic stress disorder, and anxiety, severe emotional distress, guilt, shame, and embarrassment.

40. Prior to and at the time of Modica's abuse of Burrus, the Boy Scout Defendants knew or should have known of numerous sexual assaults committed by its Scoutmasters, including specific acts committed by Modica.

41. None of the Boy Scout Defendants, any of their agents, or employees, undertook any background investigation of Modica, before authorizing and approving him to be a Scoutmaster.

42. None of the Boy Scout Defendants, any of their agents, or employees, undertook any background investigation of Modica, or instructed anyone at pack 494 regarding the known and documented risks of pedophiles become Scoutmasters and harming children.

43. None of the Boy Scout Defendants, any of their agents, or employees, instructed anyone at Pack 494 regarding screening selection, and background checks to prevent the known and documented risk of pedophiles becoming Scoutmaster and harming scouts.

44. Upon Information and belief, not only was the Boy Scout Defendants aware of Modica's and other Scoutmaster sexual abuse of children, but it participated in covering up such acts, putting additional children in harm's way.



45. The Boy Scout defendants knew, or should have known pedophiles would be attracted to positions within the Boy Scouts, and had a duty to test, screen, and investigate the background of application for position of Scoutmaster, including Modica.

46. Prior to and at the time of Modica's abuse of Burrus, the Boy Scout Defendants knew or should have known of Modica's propensity to sexual abuse young boys in his Pack.

47. Prior to hiring Modica, the Boy Scout Defendants failed to properly screen and investigate Modica, so as to discover his propensity for sexual misconduct and abuse of children, his lack of qualifications to serve in his capacity as was appointed by the Boy Scout Defendants, and the danger he posed to children in in his charge, including Burrus.

48. Prior to and at the time of Modica's abuse of Burrus, the Boy Scout Defendants failed to take steps to protect Burrus from abuse by Modica.

49. Upon information and belief, The Boy Scout Defendants knew for decades that sexual predators of boys had infiltrated scouting. BSA knew or should have known the dangers that pedophiles presented to boy scouts and either knew or should have known the danger Modica presented to children, including Burrus, but instead ignored that danger and permitted him and other pedophiles in scouting to prey upon young boys, including then minor, Burrus.

50. The BSA has maintained a group of files known as ineligible volunteer's files.

51. BSA ineligible volunteer files collected and maintain revealed that scouting is a pedophile magnet, in that removed pedophiles were often able to reenter scouting at different locations.

52. The Boy Scout Defendants knew or should have known that scouting attracts pedophiles because it provides the pedophile access to boys alone and away from their parents in secluded settings, provides opportunities for the pedophile.

53. Modica was arrested and indicted in 1973 on various counts of sexual misconduct and sodomy.

54. The conduct alleged herein constitutes a sexual offense as defined in the New York Penal Law.

55. Upon information and belief, Modica plead guilty in 1973 to the indictment.

56. The conduct alleged herein was committed against Burrus at a time when Burrus was less than eighteen years of age.

**AND FOR A FIRST CAUSE OF ACTION FOR ASSAULT AND BATTERY,  
SEXUAL MOLESTATION ABUSE OF A MINOR, SEXUAL BATTERY**

57. That at all times hereinafter mentioned, the plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint designated as "1" through "56" herein, as though more fully set forth herein at length.

58. During the years of 1972-1973, in Kings County and elsewhere, Modica intentionally seduced, sexually touched, molested, performed oral sex, and other lewd and lascivious acts upon Burrus, who at all times, was a minor, in violation of the New York Penal Code.

59. The seduction, sexual touching, molestations and oral sex were committed against Burrus will and without his consent, and Burrus did not comprehend or understand what Modica was doing or the harm it would cause him.

60. By reason the age of the plaintiff at the time of the molestation and sexual abuses, the plaintiff was unable to perceive the harm posed to him by the defendant and or his conduct or omissions, and could not consent to the sexual and physical conduct by Modica and did not consent.

61. On all times relevant hereto, Burrus was a member of the BSA, was engaged in Boy Scout related activities and was under the custody, care and control of Modica, who was an agent, employee, volunteer, servant, representative of BSA and was a Scoutmaster for Pack 494.

62. At all times relevant herein Modica was acting within the course and scope of his employment, appointment, and or agency of the Boy Scout Defendants.

63. All defendants are liable for Modica's offensive bodily contact under the doctrine of respondeat superior.

64. As a result of all defendants wrongful acts, Burrus has sustained serious and permanent physical, psychological, and emotional injury, including but not limited to post traumatic stress disorder, severe depression, anxiety and was and will be caused to suffer such injuries indefinitely into the future.

65. As a result of the defendants' wrongful acts, Burrus was required to seek medical actions to examine, treat him, and incurred expenses and will require future treatment, the amount which is unknown at this time.

66. The wrongful acts of defendants' were willful, malicious, intentional, and were committed with full knowledge that they constituted a crime and that they would cause permanent physical and emotional harm to Burrus.

67. The aforementioned wrongful acts were performed knowingly, intentionally and willfully.

68. The aforementioned wrongful acts were performed negligently and recklessly.

69. By reason of the foregoing, the plaintiff demands judgment against all defendants, in a sum exceeding the jurisdictional limits of all the lower courts.

**AS AND FOR A SECOND CAUSE OF ACTION FOR INTENTIONAL  
INFLICTION OF EMOTIONAL DISTRESS**

70. That at all times hereinafter mentioned, the plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint designated as "1" through "69" herein, as though more fully set forth herein at length.

71. The sexual abuse of Burrus, when he was a minor was extreme and outrageous, beyond all possible bounds of decency.

72. Modica acted intentionally, maliciously, and recklessly, for the purpose of causing severe emotional and physical distress to Buress.

73. Defendants knew or disregarded the substantial probability that Modica's conduct would cause severe physical, psychological, and emotional distress to Burrus.

74. In performing these wrongful acts, Modica abused his position as Scoutmaster and acted wantonly and reckless with complete disregard for the consequences to Burrus and others.

75. Because of Modica's sexual abuse, Burrus suffered severe physical, psychological, and emotional injury.

76. At the time of Modica's misconduct and sexual abuse, he was acting at the direction of, and with authority invested in him, in a position of power, by defendants, and was otherwise acting the course and scope of his employment by defendants.

77. By reason of the foregoing, all defendants are liable for Modica's conduct under the doctrine of respondeat superior.

78. By reason of the foregoing, the plaintiff, demands judgment for intentional infliction of emotional distress against all defendants, in a sum exceeding the jurisdictional

limits of all the lower courts.

**AS AND FOR A THIRD CAUSE OF ACTION FOR NEGLIGENCE**

79. That at all times hereinafter mentioned, the plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint designated as "1" through "78" herein, as though more fully set forth herein at length.

80. That at all relevant times, Modica engaged in activities of harmful nature, and abused his position of trust and authority.

81. Modica utilized his role as a Scoutmaster by violating his duty of care, trust, loyalty toward plaintiff,

82. The wrongful acts and the injuries resulting therefrom were caused by the negligence, carelessness, and recklessness of Modica as a Scoutmaster for the Boy Scout Defendants.

83. The wrongful acts and the injuries resulting therefrom were caused by the negligence, careless, and recklessness of the Boy Scout Defendants.

84. Such negligence consisted of negligence in failing exercise ordinary care, in causing physical, emotional and psychological harm and distress to the plaintiff; in humiliating the plaintiff; in inappropriately touching the plaintiff, in sexually abusing the plaintiff; in forcing the plaintiff on to Modica's bed; in abusing his position of authority; in luring children, including plaintiff, into his home; in undressing the plaintiff; in touching the plaintiff's genitals; in fondling the plaintiff's genitals; in forcing the plaintiff to provide oral sex; in masturbating in front of the plaintiff; in forcing the plaintiff to masturbate Modica's genitals; in attempting other various devious sexual acts including attempted anal penetration on the minor plaintiff, in breaching the fiduciary duty; in acting from a position of power and control over the minor

plaintiff; in breaching the trust and loyalty to the plaintiff; in cover-up Modica's wrongful acts; in failing to properly screen Modica; in allowing pedophiles to be around young children; in failing to investigate the previous activities of Modica; in failing to investigate the background, character and fitness of Modica to serve as a scoutmaster, in failing to adequately investigate and/or inquire into Modica's background or history; in failing to adequately investigate Modica's prior relationships with minor children; in failing to subject Modica to appropriate testing to uncover his pedophilic proclivities; in failing to have in place or systems policies, and procedure to monitor, and supervise Scoutmaster who work closely with or come into contact with children; in allowing Modica to have children meet him at his home with no other adults present; in allowing Modica to travel with children with no other adults present; in failing to take prompt action to remove Modica, and complaints and suspicions of sexual molestation; in failing to adopt or enforce a two-adult rule; in failing to adopt policies and procedures to protect children; in failing to advise parents of information in the Ineligible volunteers files; in failing to adequately maintain, review, and update the ineligible volunteer files; in failing to warn parents of information regarding scoutmaster and their propensity to engage in inappropriate behavior.

85. That the Boy Scout Defendants were negligent by failing to supervise the conduct and activities of Modica.

86. That the, Modica, was negligent, reckless and careless in sexually abusing the plaintiff and the Boy Scout defendants are liable for Modica's negligence under the doctrine of respondeat superior.

87. Upon Information and belief, the Boy Scout Defendants engaged in a plan of action to cover up incidents of the sexual abuse of minors by Scoutmasters and prevent disclosure, prosecution, and civil litigation including but not limited to: failing to report

incidents of abuse to law enforcement or child protection agencies; concealing abuse they had substantiated and failing to seek out and redress the injuries its Scoutmasters and leaders had cause; and failing to advise local scouting agencies of the rampant problem of sexual abuse of scouts by Scoutmasters and leaders and that BSA's system of "Ineligible volunteer Files" was ineffective at curbing the problem.

88. Based on these actions the Boy Scout defendants engaged in fraudulent concealment.

89. The Boy Scout Defendants, by and through their agents representatives, conspired to cover up incidents of sexual abuse of minors by Scoutmasters, including Modica, and to prevent disclosure, prosecution and civil litigation including but not limited to: failing to report incidents of childhood sexual abuse to law enforcement or child protection agencies; denying of abuse BSA had substantiated; aiding criminal child molesters in evading detection, arrest and prosecution; allowing pedophiles to across state and international borders for purposes of gaining access to uniformed parents' children, whom they could sexually abuse; failing to warn; and failing to seek out and redress the injuries its adult Scoutmaster had caused.

90. Based on these actions; the Boy Scout Defendants, by and through their agents and representatives, conspired for the unlawful purposed of concealing and suppressing information on the danger and treat that Modica posed to unsuspecting children including Burrus.

91. As the result of said negligence, the plaintiff was caused to suffer severe physical injuries and pain and suffering; emotional and psychological distress and horror.

92. By reason of the foregoing, the plaintiff, demands judgment against all the defendant, in a sum exceeding the jurisdictional limits of all the lower courts.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR NEGLIGENT HIRING,  
RETENTION, AND SUPERVISION**

93. That at all times hereinafter mentioned, the plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint designated as "1" through "92" herein, as though more fully set forth herein at length.

94. That at all times hereinafter mentioned, the Modica was hired or otherwise retained, appoint, employed by the Boy Scout Defendants

95. The position for which Modica was employed required him to work closely with young boys, such as Burrus.

96. Defendants owed a duty to minor entrusted to their care, and because defendants through their hiring, appointment and or retention of Modica as a Scoutmaster for Pack 494 as a role model for young boys, could be safely entrusted.

97. Defendants breached their duty by negligently hiring, appointing, retaining, supervising, directing, Modica, and in failing to protect Burrus from a sexual predator.

98. Defendants had a duty to exercise care in hiring, retaining, and supervising Scoutmasters such as Modica, as to prevent dangerous individuals, who would there the safety of children involved in the Boy Scouts, including Burrus.

99. That the defendants, has as a matter of policy and practice and with deliberate indifference failed to adequately train, supervise, discipline, sanction or otherwise direct it's Scoutmasters, including, but not limited to Modica.

100. The defendant, knew or should have known that their failure to adequately address these issues within the Boy Scouts had caused problems in the past, and would continue to cause problems in the future, including allowing pedophiles near minors because of the



failure to adopt and implement adequate policies, procedures and practices and to adequately screen, train, supervise and/or discipline Scoutmasters engaging in, or likely engage in such behavior.

101. The defendants negligently failed to hire, retain, supervise, individuals who could safely act as Scoutmasters for minors, by failing to conduct proper background checks on Modica, by failing to train local members in proper testing screening, and selection of Modica, as a Scoutmaster, by failing to monitor and supervise Modica's training and activities as Scoutmaster. Defendants negligently managed, controlled, supervised, taught, educated, oversaw and maintained Pack 494 and all of the Boy Scouts over the years, including the plaintiff.

102. Defendants were negligent careless in they knew or should have known that Modica was immoral, irresponsible, disturbed, a pedophile, and was likely to sexually abuse and molest and commit deviant sexual acts upon Burrus, and other minors. Defendants were negligent careless in they knew or should have known that or knew that Modica was luring minors to his home, sleeping with minors on unsupervised trips; forcing minors to undress, forcibly sexually touching minors, and performing oral sex and anal penetration on minors.

103. Defendants were negligent careless in they knew or should have known that Modica was a pedophile and should have carefully supervised him and limited or prohibited his activities with all minors including Burrus.

104. Defendants were negligent in hiring Modica because they knew or should have known of Modica's propensity to develop inappropriate relationships with boys in his charge, and then to engage minor boys in sexual acts and had knowledge of facts that would have caused a reasonably prudent person to reject Modica as a candidate for working with young

boys, including Burrus.

105. Defendants had a duty to provide reasonable supervision and direction of Modica, to use reasonable care in investigating and supervising Modica's conduct, to provide adequate warning to parents and the children, of Modica's dangerous propensities, and to remove him from their employ when he threaten the safety of the children he was entrusted to protect.

106. But for the defendants' inaction in hiring, retaining, and failure to supervise Modica and in failing to use reasonable care to correct and remove Modica from his duties, he would not have been in the position to sexually abuse Burrus, and other minors as a Scoutmaster for Pack 494.

107. As a result of defendants' negligence, Burrus suffered severe physical, psychological, and emotional injuries.

108. At times material to this complaint, the defendants failed to properly train, screen, supervise, or discipline its employees and Scoutmasters, including Modica, and failed to inform the local defendants' supervisor of their need to train, screen, supervise or discipline the individual.

109. Upon Information and belief, the Boy Scout Defendants engaged in a plan of action to cover up incidents of the sexual abuse of minors by Scoutmasters and prevent disclosure, prosecution, and civil litigation including but not limited to: failing to report incidents of abuse to law enforcement or child protection agencies; concealing abuse they had substantiated and failing to seek out and redress the injuries its Scoutmasters and leaders had cause; and failing to advise local scouting agencies of the rampant problem of sexual abuse of scouts by Scoutmasters and leaders and that BSA's system of "Ineligible volunteer Files" was

ineffective at curbing the problem.

110. Based on these actions the Boy Scout defendants engaged in fraudulent concealment.

111. Such negligence consisted of negligence in failing exercise ordinary care, in causing physical, emotional and psychological harm and distress to the plaintiff; in humiliating the plaintiff; in inappropriately touching the plaintiff, in sexually abusing the plaintiff; in forcing the plaintiff on to Modica's bed; in abusing his position of authority; in luring children into his home; in undressing the plaintiff; in touching the plaintiff's genitals; in fondling the plaintiff's genitals; in forcing the plaintiff to provide oral sex; in masturbating in front of the plaintiff; in forcing the plaintiff to masturbate Modica's genitals; in attempting other various devious sexual acts including attempted anal penetration on the minor plaintiff, in breaching the fiduciary duty; in acting from a position of power and control over the minor plaintiff; in breaching the trust and loyalty to the plaintiff; in cover-up Modica's wrongful acts; in failing to properly screen Modica; in allowing pedophiles to be around young children; in failing to investigate the previous activities of Modica; in failing to investigate the background, character and fitness of Modica to serve as a scoutmaster, in failing to adequately investigate and/or inquire into Modica's background or history; in failing to adequately investigate Modica's prior relationships with minor children; in failing to subject Modica to appropriate testing to uncover his pedophilic proclivities; in failing to have in place or systems policies, and procedure to monitor, and supervise Scoutmaster who work closely with or come into contact with children; in allowing Modica to have children meet him at his home with no other adults present; in allowing Modica to travel with children with no other adults present; in failing to take prompt action to remove Modica, and complaints and suspicions of sexual molestation ; in failing to

adopt or enforce a two-adult rule; in failing to adopt policies and procedures to protect children; in failing to advise parents of information in the Ineligible volunteers files; in failing to adequately maintain, review, and update the ineligible volunteer files; in failing to warn parents of information regarding scoutmaster and their propensity to engage in inappropriate behavior.

112. The Boy Scout Defendants, by and through their agents representatives, conspired to cover up incidents of sexual abuse of minors by Scoutmasters, including Modica, and to prevent disclosure, prosecution and civil litigation including but not limited to: failing to report incidents of childhood sexual abuse to law enforcement or child protection agencies; denying of abuse BSA had substantiated; aiding criminal child molesters in evading detection, arrest and prosecution; allowing pedophile to cross state and international borders for purposes of gaining access to uniformed parents' children, whom they could sexually abuse; failing to warn; failing to seek out and redress the injuries its adult Scoutmaster had caused.

113. Based on these actions, the Boy Scout Defendants, by and through their agents and representatives, conspired for the unlawful purpose of concealing and suppressing information on the danger and threat that Modica posed to unsuspecting children including Burrus.

114. Such policies, practice and deliberate indifference in failing to properly train, screen, supervise and or discipline have been described in excruciating detail in the various investigations and commissions into the BSA. It has served to encourage and sanction the Scoutmasters unlawful conduct described above, and was the direct and/or a proximate cause of the sexual abuse of the plaintiff.

115. By reason of the foregoing, the plaintiff, demands judgment for against all the defendants in a sum exceeding the jurisdictional limits of all the lower courts.

**AS AND FOR A SIXTH CAUSE OF ACTION FOR NEGLIGENT INFLICITON  
OF EMOTIONAL DISTRESS**

116. That at all times hereinafter mentioned, the plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint designated as "1" through "115" herein, as though more fully set forth herein at length.

117. The sexual abuse of Burrus, when he was a minor caused severe emotional distress including physical, psychological, and emotional injury.

118. The distress was a direct result of the defendants negligent, reckless, and willful misconduct, acts, and a breach in their duties to provide a safe environment, including Burrus, free from sexual predators in authority, and free from the sexual assault that took place

119. In addition to their own direct liability for negligently inflicting emotional distress, the Boy Scout defendants are liable for Modica's negligent infliction of emotional distress under the doctrine of respondeat superior.

120. Defendants knew or disregarded the substantial probability that Modica's conduct would cause severe physical, psychological, and emotional distress to Burrus

121. By reason of the foregoing, the plaintiff, demands judgment for intentional infliction of emotional distress against all defendants, in a sum exceeding the jurisdictional limits of all the lower courts.

**AS AND FOR A SEVENTH CAUSE OF ACTION FOR PUNITIVE DAMAGES**

122. That at all times hereinafter mentioned, the plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint designated as "1" through "121" herein, as though more fully set forth herein at length.

123. The actions of the defendants herein-above alleged, were malicious, willful and

grossly negligent.

124. The conduct of the defendants was done with the utter disregard as to the injuries that would ensue and with depraved indifference to the health and well-being of children, and to the fact that defendants knowingly subjected children, including the plaintiff, to sexual predators.

125. The Boy Scout Defendants, by and through their agents representatives, conspired to cover up incidents of sexual abuse of minors by Scoutmasters, including Modica, and to prevent disclosure, prosecution and civil litigation including but not limited to: failing to report incidents of childhood sexual abuse to law enforcement or child protection agencies; denying of abuse BSA had substantiated; aiding criminal child molesters in evading detection, arrest and prosecution; allowing pedophile to cross state and international borders for purposes of gaining access to uniformed parents' children, whom they could sexually abuse; failing to warn; failing to seek out and redress the injuries its adult Scoutmaster had caused.

126. Based on these actions, the Boy Scout Defendants, by and through their agents and representatives, conspired for the unlawful purposed of concealing and suppressing information on the danger and treat that Modica posed to unsuspecting children including Burrus.

127. Upon Information and belief, the Boy Scout Defendants engaged in a plan of action to cover up incidents of the sexual abuse of minors by Scoutmasters and prevent disclosure, prosecution, and civil litigation including but not limited to: failing to report incidents of abuse to law enforcement or child protection agencies; concealing abuse they had substantiated and failing to seek out and redress the injuries its Scoutmasters and leaders had cause; and failing to advise local scouting agencies of the rampant problem of sexual abuse of

scouts by Scoutmasters and leaders and that BSA's system of "Ineligible volunteer Files" was ineffective at curbing the problem.

128. Based on these actions the Boy Scout defendants engaged in fraudulent concealment.

129. As a result of the defendants conduct that was wanton, reckless, malicious, and a conscious indifference and utter disregard of its effect on the health, safety and right of other including plaintiff, plaintiff is entitle to recover punitive damages in the amount to be determined by the finder of fact.

130. By reason of the foregoing, the plaintiff, demands judgment for punitive damages against all the defendants, in a sum exceeding the jurisdictional limits of all the lower courts.

### **DAMAGES**

As a direct and proximate result of the aforesaid acts of the defendants, the plaintiff, WINFRED BURRUS, sustained damages and injuries in an amount to be determined by a jury to be fair and equitable compensation.

(A) Plaintiff, WINFRED BURRUS, claims damages for past and future pain and suffering; and

(B) Plaintiff, WINFRED BURRUS, claims damages claims damages for assault and battery, sexual molestation and assault of a minor, and sexual battery; and

(C) Plaintiff, WINFRED BURRUS, claims damages for intentional infliction of emotional distress; and

(D) Plaintiff, WINFRED BURRUS, claims damages claims damages for negligence, negligent hiring and retention, supervision and training; and

(E) Plaintiff, WINFRED BURRUS, claims damages for negligent infliction of

emotional distress; and

(F) Plaintiff, WINFRED BURRUS, claims damages claims damages for punitive damages; and

(G) For costs, disbursement and attorney's fees as permissible under the law; and

(H) Damages are claimed on behalf of each plaintiff in an amount which a jury shall determine to be fair and equitable; and

(I) All plaintiffs claim damages for punitive damages against the defendants, in an amount which a jury shall determine is appropriate to deter future similar conduct; and

(J) Such other and further relief as to this Court may seem just equitable and proper.

DATED: Brooklyn, New York  
August 14, 2019

Yours, etc.,

A handwritten signature in blue ink, appearing to be 'CRS', is written over the printed name of the law firm.

RUBENSTEIN & RYNECKI, ESQS.  
Attorneys for Plaintiffs  
16 Court Street Suite 1717  
Brooklyn, New York 11241  
(718) 522-1020



**INDIVIDUAL VERIFICATION**

STATE OF NEW YORK )

) SS:

COUNTY OF KINGS )

WINFRED BURRUS, being duly sworn, deposes and says, that deponent is the plaintiff in the within action; that deponent has read the foregoing **COMPLAINT** and knows the contents hereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters deponent believes them to be true.

  
WINFRED BURRUS

Sworn to before me this 13<sup>th</sup>  
day of August, 2019

  
NOTARY PUBLIC

SHARON S. KHAN  
Notary Public, State of New York  
No. 01KH6159683  
Qualified in Kings County  
Commission Expires January 22, 2023